

MARCH 6, 2008MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

#25017

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**JUDGE LEFKOW
MAGISTRATE JUDGE DENLOW**DANUTA WOZNIAK, Individually and as
Special Administrator of the ESTATE of
JAN WOZNIAK, deceased

Plaintiff,

vs.

WYNDHAM HOTELS AND RESORTS, LLC
a foreign corporation

Defendant.

Civil Action No:
Circuit Court Cook County
Illinois Case No.: 08 L 896**J. N.****NOTICE OF REMOVAL**

NOW COMES the Defendant, WYNDHAM HOTELS AND RESORTS, LLC (Hereinafter "WHR"), by and through its attorneys, PRETZEL & STOUFFER, CHARTERED, and hereby removes this civil action being case number 08 L 896 from the Circuit Court of the State of Illinois, Cook County, Law Division to the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 USC §1441 and 1332. In support thereof, the Defendant states as follows:

1. This action was commenced against WHR in the Circuit Court of Cook County, County Department, Law Division, State of Illinois on January 25, 2008. The Complaint at Law was served upon the Defendant on February 6, 2008. Therefore, this notice is filed within 30 days after service of the Complaint upon WHR.

2. At the time the action was commenced, the Plaintiff, Danuta Wozniak, was a citizen of the State of Illinois. Defendant, WHR, was a corporation organized and existing under the laws of the state of Delaware. The Defendant corporation has its principal place of business in New Jersey.

3. Plaintiff has filed a complaint seeking recovery for wrongful death, survival and a loss of consortium alleged to have been suffered as the result of a fall at a franchised Wyndham brand hotel, which is independently owned and operated by a franchisee. Plaintiff claims these injuries and damages exceed the State Court's jurisdictional limit of \$50,000. Based on this information, including the claim of wrongful death, there is a good faith basis to assert that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

4. This is a civil action which the United States district courts have original jurisdiction under 28 USC §1332. This Notice of Removal is filed in the United States District Court for the Northern District of Illinois, Eastern Division, which is the district and division in which the State action is pending. Additionally, WHR is the sole Defendant thereby negating the need to obtain consent to remove this action.

5. The Defendant attaches to this Notice copies of process, pleadings, and order that have been served upon it as Exhibit A.

WHEREFORE, the Defendant, WYNDHAM HOTELS AND RESORTS, LLC, by and through its attorneys, PRETZEL & STOUFFER, CHARTERED, prays that this cause be removed to the United States District Court for the Northern District of Illinois.

Respectfully submitted,

Wyndham Hotels And Resorts, LLC

By: 

One of their Attorneys

Patrick F. Healy
Amy J. Thompson
One South Wacker Drive, Suite 2500
Chicago, Illinois 60606
312-346-1973

FILED-2
108 JAN 25 PM 12:02
CIRCUIT COURT
LAW DIVISION

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

DANUTA WOZNAK, Individually and as
Special Administrator of the ESTATE of
JAN WOZNAK, deceased,

Plaintiff,

-vs-

WYNDHAM HOTELS AND RESORTS, LLC
a foreign corporation,

Defendant.

No.

2008L0000896
CALENDAR/ROOM 1
TIME 00:00
Premises Liability

Amount Claimed: In Excess of \$50,000

COMPLAINT AT LAW

Plaintiff DANUTA WOZNAK, Individually and as Special Administrator of the ESTATE of JAN WOZNAK, deceased by and through their attorneys, NEMEROFF LAW OFFICES, LTD., complains of Defendant WYNDHAM HOTELS AND RESORTS, LLC, a foreign corporation, as follows:

COUNT I
(SURVIVAL ACTION)

1. DANUTA WOZNAK, as representative of the estate of JAN WOZNAK, deceased, brings this action to recover damages resulting from injuries to the person pursuant to the common law and pursuant to the Illinois survival statute.
2. DANUTA WOZNAK is the appointed special administrator of the estate of JAN WOZNAK, deceased, pursuant to order entered by the Circuit Court of Cook County on January 24, 2008.
3. On October 16, 2007, JAN WOZNAK died as a result of falling on the premises of the Wyndham CZM Resort & Spa Caribbean Rm located in Cozumel, Mexico (hereinafter "premises").
4. Jan Wozniak and Danuta Wozniak had been married for about 20 years and were still married at the time of his death on October 16, 2007.
5. That on or about October 16, 2007, WYNDHAM HOTELS AND RESORTS, LLC (hereinafter referred to as "Wyndham"), was a foreign corporation registered to do business in the State of Illinois and doing business in Cook County, Illinois.

6. That on or about October 16, 2007, Islander Properties S.A. de C.V. was the owner of the hotel where Jan Wozniak slipped and fell in Cozumel, Mexico.

7. At all times relevant, including the dates that Jan Wozniak and Danuta Wozniak booked their vacation to Cozumel through Apple Vacations, the hotel/resort where they were staying and where Jan slipped and fell, was marketed to the Wozniak's as being owned and operated by defendant Wyndham.

8. Jan and Danuta Wozniak, chose book their vacation in Cozumel from October 10, 2007 through October 17, 2007 because of their trust in the Wyndham Resorts reputation.

9. From the time of their arrival at the hotel/resort on October 10, 2007 until the time of Jan Wozniak's death on October 17, 2007, the hotel/resort where Jan and Danuta Wozniak died held itself out to the Wozniaks' and the public as a Wyndham owned and operated hotel/resort.

10. That at all times relevant, WYNDHAM was acting as an actual or apparent agent of the owner of the hotel/resort.

11. At all times relevant, Jan and Danuta Wozniak lived in Morton Grove, Cook County, State of Illinois.

12. On or about October 16, 2007, Wyndham, through its agency relationship, was responsible for the operation of the Premises.

13. On or about October 16, 2007, Wyndham, through its agency relationship, was responsible for the maintenance of the Premises.

14. On or about October 16, 2007, Plaintiff-decedent was lawfully present on said premises as an invitee.

15. At all times, defendant had actual or constructive notice of the slippery conditions in the hotel/resort lobby.

16. At all times, defendant had actual or constructive notice of the low stairway walls that bordered the stairs located in the lobby which went down beneath the lobby floor.

17. On or about October 16, 2007, Plaintiff-decedent, Jan Wozniak was at all times in the exercise of due care and caution for his safety and for the safety of others.

18. On or about October 16, 2007, Plaintiff-decedent, Jan Wozniak, was walking into the lobby of the premises from the pool patio area.

19. While he was walking in the lobby, he slipped and fell over the side of a stairwell which was located in the lobby.

20. As a result of said fall on October 16, 2007, he was caused to be seriously injured and died later that day from his injuries incurred in the fall.

21. On October 16, 2007, WYNDHAM, through its agency relationship, owed to Plaintiff a duty to use reasonable care to maintain said premises in a reasonably safe condition for the safety of its business patrons, including Plaintiff, and others lawfully present upon said Premises.

22. Notwithstanding said duty, at said time and place WYNDHAM, through its agency relationship, was guilty of one or more of the following careless and negligent acts or omissions:

- (a) failed to properly maintain the lobby in a safe condition;
- (b) failed to have sidewalls to the stairwell which were of a safe height, thereby causing a hazardous condition for the patrons and others lawfully on the Premises, including Plaintiff-decedent;
- (c) failed to exercise ordinary care to keep and maintain the Premises in a proper and safe condition;
- (d) failed to inspect the Premises, thereby failing to keep the Premises in a safe condition;
- (e) failed to warn Plaintiff of the dangerous condition existing on the Premises;
- (f) was otherwise negligent and/or careless in the maintenance and operation of the Premises.

23. As a direct and proximate result of one or more of the foregoing acts and/or omissions of WYNDHAM, through its agency relationship, Plaintiff-decedent slipped and fell on the Premises.

24. As a direct and proximate result of aforementioned fall, Plaintiff-decedent suffered serious injuries of a personal and pecuniary nature.

WHEREFORE, Plaintiff Plaintiff DANUTA WOZNAK, Individually and as Special Administrator of the ESTATE of JAN WOZNAK, deceased, demands judgment against Defendant WYNDHAM HOTELS AND RESORTS, LLC in the amount in excess of \$50,000 the minimum jurisdictional amount of this court plus costs.

COUNT II
(WRONGFUL DEATH)

Plaintiff DANUTA WOZNAK, Individually and as Special Administrator of the ESTATE of JAN WOZNAK, deceased by and through their attorneys, NEMEROFF LAW OFFICES, LTD., complains of Defendant WYNDHAM HOTELS AND RESORTS, LLC, a foreign corporation, as follows:

1 - 24. Plaintiff, DANUTA WOZNAK, as Special Administrator of the Estate of Jan Woznaik, deceased, realleges and restates Paragraphs 1 - 24 of Count I of this Complaint as though fully set forth herein as Paragraphs 1 - 24 of this Count II.

25. Plaintiff, DANUTA WOZNAK, as Special Administrator of the Estate of Jan Woznaik, deceased brings this action pursuant to the Illinois Wrongful Death Act on behalf of the decedent's surviving spouse and next of kin.

26. At the time of his death, Jan Wozniak was survived by his wife Danuta Woznaik, his son Greg Wozniak and his son Wojciech Wozniak.

27. That the survivors have sustained substantial pecuniary loss including the loss of the support, care, society, companionship, affection and grief of JAN WOZNAK.

28. That as a proximate result of one or more of the foregoing negligent acts and/or omissions of the Defendant, by virtual of his agency relationship, Jan Wozniak died on October 16, 2007.

WHEREFORE, Plaintiff Plaintiff, DANUTA WOZNAK, Individually and as Special Administrator of the ESTATE of JAN WOZNAK, deceased, demands judgment against Defendant WYNDHAM HOTELS AND RESORTS, LLC in the amount in excess of \$50,000 the minimum jurisdictional amount of this court plus costs.

COUNT III
LOSS OF CONSORTIUM

Plaintiff DANUTA WOZNAK, Individually and as Special Administrator of the ESTATE of JAN WOZNAK, deceased by and through their attorneys, NEMEROFF LAW OFFICES, LTD., complains of Defendant WYNDHAM HOTELS AND RESORTS, LLC, a foreign corporation, as follows:

1 - 24. Plaintiff, DANUTA WOZNAK, as Special Administrator of the Estate of Jan Woznaik, deceased, realleges and restates Paragraphs 1 - 24 of Count I of this Complaint as though fully set forth herein as Paragraphs 1 - 24 of this Count II.

25. That as a proximate result of one or more of the foregoing acts and/or omissions of the Defendant, DANUTA WOZNAK has been deprived of the society, comfort, affection and companionship of her husband, JAN WOZNAK.

WHEREFORE, Plaintiff, DANUTA WOZNAK, demands judgment against Defendant, WYNDHAM HOTELS AND RESORTS, LLC, jointly and severally with all other defendants, in an amount in excess of the Fifty Thousand Dollars (\$50,000), the minimum jurisdictional amount of this court plus costs.

Respectfully submitted,



David B. Nemeroff,

NEMEROFF LAW OFFICES, LTD.
55 W. Monroe St., Suite 600
Chicago, IL 60603
(312) 629-8800
Atty. No. 34371

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

DANUTA WOZNIAK, Individually and as
Special Administrator of the ESTATE of
JAN WOZNIAK, deceased,

Plaintiff,

-vs-

WYNDHAM HOTELS AND RESORTS, LLC
a foreign corporation,

Defendant.

No.

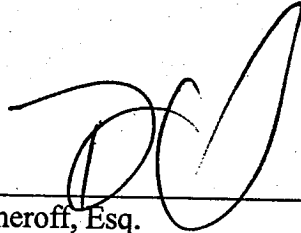
Amount Claimed: In Excess of \$50,000

AFFIDAVIT

I, David B. Nemeroff, first being duly sworn on oath, depose and state as follows:

1. The damages claimed by the plaintiffs exceed the sum of FIFTY THOUSAND
DOLLARS (\$50,000).

FURTHER AFFIANT SAYETH NOT.



David Nemeroff, Esq.
Attorney for Plaintiff

VERIFICATION

Under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.



David Nemeroff

FILED-2
2008 JAN 25 PM 12:03
CLERK OF CIRCUIT COURT
LAW DIVISION

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

DANUTA WOZNAK, Individually and as
Special Administrator of the ESTATE of
JAN WOZNAK, deceased,

Plaintiff,

-vs-

WYNDHAM HOTELS AND RESORTS, LLC
a foreign corporation,

Defendant.

) 3390
) 3004
) No.

2008L000896
CALENDAR/ROOM 2
TIME 00:00
Premises Liability

) Amount Claimed: In Excess of \$50,000
)

MOTION TO TO
APPOINT SPECIAL ADMINISTRATOR

Plaintiffs, by and through their attorneys, NEMEROFF LAW OFFICES, LTD., and in support of this Motion to Appoint Special Administrator, states as follows:

1. On October 16, 2007, the Plaintiff, Jan Wozniak, died due to a slip and fall accident which occurred in Cozumel, Mexico.
2. To date, no personal representative has been appointed by the estate of the plaintiff.
3. Plaintiff suggests appointing Danuta Wozniak, wife of the decedent Jan Wozniak, to serve as special administrator of the Estate of JAN WOZNAK.
4. Danuta Woznaik is more than twenty one years of age and resides at 7026 Wilson Terrace, Morton Grove, IL 60053.

WHEREFORE, Plaintiff respectfully requests this Court to enter an Order as follows:

1. Appoint DANUTA WOZNAK as Special Administrator of the Estate of JAN WOZNAK.

Respectfully submitted,

NEMEROFF LAW OFFICES, LTD.
55 W. Monroe St., Ste. 600
Chicago, IL 60603
(312) 629-8800
Atty. No.: 34371



U.S. Department of State
Report of Death of an American Citizen Abroad

Merida, Yucatan, Mexico 10/26/2007
 (Post & date of issue)

Name in full John Wozniak Age 59

Date and Place of Birth January 22, 1948 Poland

Evidence of U.S. Citizenship Passport No. 027158676 issued on August 11, 2000.

Address in U.S.A. 7026 Wilson Terrace Morton Grove, Illinois 60053

Permanent or Temporary Address Wyndom Resort Cozumel, Quintana Roo, Mexico.

Date of death October 16 13:58 2007
 (Month) (Day) (Hour) (Year)

Place of death Centro Medico de Cozumel Cozumel, Quintana Roo Mexico
 (Number and street) or (Hospital or hotel) (City) (Country)

Cause of death Subdural hematoma, head trauma, accidental fall, severe metabolic uncontrolled, type II diabetes
 (Including authority for statement - if physician, include full name and official title, if any)

as certified in Mexican death certificate by Dr. Salvador Martin Mandujano.

Disposition of the remains Prepared and sent to Niles, Illinois.

Local law governing disinterment of remains provides N/A

Disposition of the effects In custody of NOK/spouse Danuia Wozniak.

Person or official responsible for custody of effects and accounting therefore Danuia Wozniak.

Traveling/residing abroad with relatives or friends as follows:

NAME	ADDRESS
<u>Danuia Wozniak</u>	<u>7026 Wilson Terrace, Morton Grove, IL 60053</u>

Informed by telegram or telephone

NAME	ADDRESS
<u>Danuia Wozniak</u>	<u>7026 Wilson Terrace, Morton Grove, IL 60053</u>

Copy of this report sent to:

NAME	ADDRESS
<u>Danuia Wozniak</u>	<u>7026 Wilson Terrace, Morton Grove, IL 60053</u>

Notification or copy sent to Federal Agencies: SSA ☒ VA ☐ CSC ☐ Other ☐ (State Agency)

The original copy of this document and information concerning the effects are being placed in the permanent files of the Department of State, Washington, D.C. 20520

Remarks:
Passport returned to next of kin. Mexican death certificate No. 00164, filed Oct. 17, 2007, Cozumel, Q.Roo, Mexico.
 (Continue on reverse if necessary.)

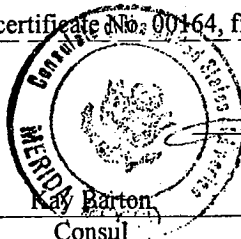
(Last name)
 Wozniak

(First name)
 John

(Middle name)

(Date of death)
 16-Oct-2007

[SEAL]



Kay Barton
 (Signature on all copies)

of the United States of America.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

DANUTA WOZNIAK, Individually and as
Special Administrator of the ESTATE of
JAN WOZNIAK, deceased,

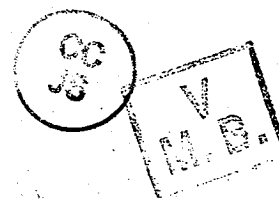
Plaintiff,

-vs-

WYNDHAM HOTELS AND RESORTS, LLC
a foreign corporation,

Defendant.

No. 08-896



ORDER

Plaintiffs, on their Motion to Appoint Special Administrator, the court being fully
advised in the premises, IT IS HEREBY ORDERED:

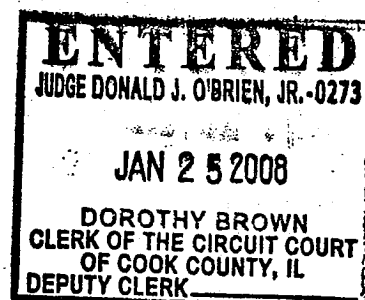
4208

1. Danuta Wozniak, 7026 Wilson Terrace, Morton Grove, IL 60053 is hereby
appointed special administrator of the Estate of Jan Wozniak, deceased.

.....
Judge

.....
Date

NEMEROFF LAW OFFICES, LTD.
55 W. Monroe St., Suite 600
Chicago, IL 60603
(312) 629-8800
Atty. No. 34371





CORPORATION SERVICE COMPANY®

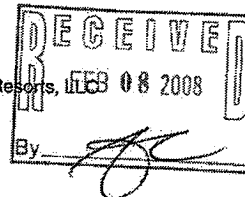
Notice of Service of Process

WCE / ALL
Transmittal Number: 5584644
Date Processed: 02/07/2008

Primary Contact: Mr. Marcus Banks
Wyndham Worldwide Corporation
7 Sylvan Way
Parsippany, NJ 07054

Copy of transmittal only provided to: Scott McLester

Entity: Wyndham Hotels and Resorts, LLC
Entity ID Number: 2394815
Entity Served: Wyndham Hotels And Resorts, LLC
Title of Action: Danuta Wozniak vs. Wyndham Hotels and Resorts, LLC
Document(s) Type: Summons/Complaint
Nature of Action: Wrongful Death
Court: Cook Circuit Court, Illinois
Case Number: 2008L000896
Jurisdiction Served: Illinois
Date Served on CSC: 02/06/2008
Answer or Appearance Due: 30 Days
Originally Served On: CSC
How Served: Personal Service
Plaintiff's Attorney: David Nemeroff
312-629-8800



Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com